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The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON - SEATTLE

INSOMNIAC HOLDINGS, LLC, a Delaware  
Limited Liability Company,  
  
Plaintiff,  
  
v.  
  
CONSCIOUS ENTERTAINMENT GROUP,  
LLC d/b/a USC Events, a Washington  
Limited Liability Company, and CHAD  
ANDERSON, an individual,  
  
Defendants.

NO. 2:20-cv-00137  
  
DEFENDANTS' MOTION TO  
STAY DISTRICT COURT  
PROCEEDINGS RE:  
  
CORONAVIRUS (COVID-19)  
  
Noted for Consideration:  
March 27, 2020

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**I. RELIEF REQUESTED**

Defendants hereby move the Court to stay District Court proceedings in this case until the emergency orders issued by this Court have been lifted and/or modified, or April 15, 2020, whichever is sooner.

Due to the emergency health restrictions on in-person contact and travel, Defendants' counsel is unable to conduct an in-person meeting with Mr. Anderson, his accountant, his CPA, counsel's certified fraud examiner, or his consulting expert in this case. See *Declaration of Alex Thomason, 3/20/2020, Exhibit 1 hereto*. The undersigned counsel was retained on March 6, 2020, and on the same day, filed for an extension to answer the Complaint until March 20, 2020. Counsel needed time to meet with the Defendant and confer prior to filing a responsive pleading. In-person meetings are necessary to examine a variety of documents rendering telephonic conferences ineffective. See *id.*

Due to the health restrictions in place, Defendants' counsel is unable to advise regarding mandatory counterclaims that are required to be filed on the initial Answer pursuant to FRCP 13. In addition, counsel and his staff have six immediate, local family members who are particularly vulnerable to COVID-19 and have been undergoing brain surgery, chemotherapy, radiation therapy, and suffering from heart conditions (see "Danica the Brave" Facebook page for one such example). This has affected 100% of counsel's office and counsel is operating on a "skeleton crew" due to quarantining of staff and their children, and upon information and belief, mandatory health measures will require a complete office shutdown. See *id.*

## II. ARGUMENT.

“The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.” (*Clinton v. Jones*, 520 U.S. 681, 706 (1997)). That power applies “especially in cases of extraordinary public moment,” when “a plaintiff may be required to submit to delay not immoderate in extent and not oppressive in its consequences if the public welfare or convenience will be promoted.” (id. at 707). The Ninth Circuit has described various factors that should be considered when evaluating a motion to stay:

Where it is proposed that a pending proceeding be stayed, the competing interest which will be affected by the granting or refusal to grant a stay must be weighed. Among these competing interests are the possible damage which may result from the granting if a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.

*CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9<sup>th</sup> cir. 1962). The Defendant will suffer tremendous hardship if he is unable to meet with his own counsel due to State and Federal travel and health restrictions. This dispute concerns a breach of contract for several million dollars, the facts of which are disputed. The Complaint seeks injunctive relief that would immediately and irreparably damage and destroy the Defendants’ business, if granted. The Defendants intend to vigorously defend this Complaint, but cannot do so due to circumstances outside of their control; namely, this dramatic public health crisis.

The Defendants cannot respond to discovery requests without meeting with their counsel and experts. In effect, the public health crisis we now face has vitiated the Defendants’ ability to participate in this matter.

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**III. CONCLUSION.**

In the words of Thomas S. Hixson, United States Magistrate for the Northern District of California, "These are extraordinary times. The novel coronavirus that began in Wuhan, China, is now a pandemic. The nine counties in the San Francisco Bay Area have imposed shelter-in-place orders in an effort to slow the spread of the contagion. This Court has temporarily halted jury trials, even in criminal cases, and barred the public from courthouses." *In the Matter of the Extradition of Alejandro Toledo Manrique*, U.S. District Court, N.D. California 19-mj-71055-MAG-1 (TSH).

The Court should enter a stay in this matter until the emergency orders issued by this Court have been lifted and/or modified, or April 15, 2020, whichever is sooner.

DATED this 20<sup>th</sup> day of March, 2020

VALOR LAW GROUP, PS



ALEX THOMASON, WSBA #35975  
Attorney for Defendants

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing  
***Request to Stay*** was caused to be served on counsel of record as noted below:

|   |  |
|---|--|
| United States District Court Clerk's Office<br>Western District of Washington<br>700 Stewart Street, Suite 2310<br>Seattle, WA 98101  | <input checked="" type="checkbox"/> By electronic filing   |
| Davis Wright Tremaine, LLP<br><i>Attorneys for Insomniac</i><br>Attn: Jaime D. Allen & Jennifer K. Chung<br>920 Fifth Avenue, Suite 3300<br>Seattle, WA 98104-1610<br>jaimedrozdallen@dwt.com;<br>jenniferchung@dwt.com | <input checked="" type="checkbox"/> By First Class U.S. Mail<br><input checked="" type="checkbox"/> By Email |

DATED this 20<sup>th</sup> day of March, 2020.

  
Allie Burgatt